

## § 891.530

## 24 CFR Ch. VIII (4–1–00 Edition)

at the end of the escrow period shall be returned to the Borrower.

### § 891.530 Prepayment privileges.

(a) The prepayment (whether in whole or in part) or the assignment or transfer of physical and financial assets of any Section 202 project is prohibited, unless the Secretary gives prior written approval.

(b) The Secretary may not grant approval unless he or she has determined that the prepayment or transfer of the loan is part of a transaction that will ensure the continued operation of the project, until the original maturity date of the loan, in a manner that will provide rental housing for the elderly and handicapped on terms at least as advantageous to existing and future tenants as the terms required by the original Section 202 loan agreement and any other loan agreements entered into under other provisions of law.

### § 891.535 Requirements for awarding construction contracts.

(a) Awards shall be made only to responsible contractors that possess the potential ability to perform successfully under the terms and conditions of a proposed construction contract. Consideration shall be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.

(b) Each Borrower is permitted to use either competitive bidding (formal advertising) in selecting a construction contractor or the negotiated non-competitive method of contract award under paragraph (c) of this section. In competitive bidding, sealed bids are publicly solicited and a firm, fixed-price contract is awarded (in accordance with the requirements of this paragraph (b)) to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is lowest in price. Regardless of which method a Borrower uses, there should be an opportunity for minority owned and women owned businesses to be awarded a contract.

(1) Bids shall be solicited from an adequate number of known contractors a reasonable time prior to the date set forth for opening of bids. In addition,

the invitation shall be publicly advertised.

(2) The invitation for bids shall specify:

- (i) The name of the Borrower;
- (ii) A brief description of the proposed project and the proposed construction contract;
- (iii) A preliminary estimate of cost;
- (iv) That bids will be received at a specified place until a specified time at which time and place all bids will be publicly opened;
- (v) The location where the proposed forms of contract and bid documents, including plans and specifications, are on file and may be obtained on payment of a specified returnable deposit;
- (vi) That a certified check or bank draft or satisfactory bid bond in the amount of 5 percent of the bid shall be submitted with the bid;
- (vii) That the successful bidder will be required to provide assurance of completion in the form of a performance and payment bond or cash escrow; and

(viii) That the Borrower reserves the right to reject any or all bids and to waive any informality.

(3) The bid form, which must be submitted by all bidders, must specify:

- (i) The name of the project;
- (ii) The name and address of the bidder;
- (iii) That the bidder proposes to furnish all labor, materials, equipment and services required to construct and complete the project, as described in the invitation for bids (including the contents of all documents on file), for a specified lump-sum price;
- (iv) That the security specified in paragraph (b)(2)(vi) of this section accompanies the bid;
- (v) The period after the bid opening during which the bid shall not be withdrawn without the consent of the Borrower;
- (vi) That the bidder will, if notified of acceptance of such bid within a specified period after the opening, execute and deliver a contract in the prescribed form and furnish the required bond within ten days thereafter;
- (vii) That the bidder acknowledges any amendments to the invitation for bids; and